

REMARKS

The claims in the application remain 1-16 and 18-43.

Favorable reconsideration of the application as amended is respectfully requested.

The claims have been amended in accordance with a telephone interview between the Examiner in charge of the above-identified application at the Patent and Trademark Office and undersigned attorney on Monday, December 17, 2007. The courtesy extended by the Examiner in arranging for and conducting the telephone interview, is greatly appreciated.

Independent Claim 1 has been amended as presented for discussion during the telephone interview and discussed further *infra*. The amendment to the claims eliminates the objection and rejection under 35 U.S.C. §112, second paragraph, raised in paragraphs 2 , 4 and 11 of the Final Office Action. Claim 41 has been amended to insert the description of Kraton G® found, e.g., at column 15, lines 35-39 of U.S. Pat. No. 6,057,024 to Mleziva et al. The parentheses had been deleted from Claim 16 in the previous amendment, however this claim has been re-amended for clarity.

Accordingly, the only outstanding issue is the prior art rejection of the claims.

Claims 1-4, 8-14, 16, 21-23 and 37-40 have been rejected under 35 U.S.C. §§102 or 103 as being anticipated by or obvious over U.S. Pat. No. 6,057,024 to Mleziva et al in paragraph 7 of the Final Office Action, while Claims 9, 10, 14, 15, 26 and 43 have been rejected as obvious additionally in view of U.S. Pat. No. 4,879,170 to Radwanski et al in paragraph 8 of the Final Office Action, Claims 18, 19, 41 and 42 rejected as obvious additionally in view of U.S. Pat. No. 4,663,220 Wisneski et al in paragraph 9 of the Final Office Action and Claims 24 and 25 rejected as obvious additionally in view of U.S. Pat.

Nos. 6, 663,584 to Griesbach, III et al or 5,503,908 to Faass in paragraph 10 of the Final Office Action. However, as pointed out during the telephone interview, the claimed invention recites patentable subject matter over any possible combination of this art, for the following reasons.

As documented in the present application, the present invention is directed to nonwoven material possessing the combination of both good breathability, barrier property and tensile strength, and excellent elastic properties, i.e., high stretchability and good recovery. This is explicitly attained with the nonwoven material recited in independent Claim 1 and composed of either a multilayer composite including at least one layer of a blend of elastic and non-elastic polymer fiber/filaments, or homogeneous fiber/filament mix having portions made from elastic and non-elastic polymer, with a majority of fibers or filaments in the blend or mix drawn and aligned in a direction, under application of heat, extending transversely to direction in which the nonwoven material is elastic.

Tables 2-7 and Figs. 3-6 document the improved combination of properties attained by the claimed nonwoven material. Table 2 specifically documents both improved stretchability and tensile strength over prior art nonwoven material not containing the claimed blend or mix, with Tables 3-7 and Figs. 2-6 documenting excellent stretchability, air permeability, tensile strength, recovery and water impermeability, especially upon stretching of the inventive nonwoven material. The features of the presently claimed invention together with the accompanying advantages attained thereby, are neither disclosed nor suggested by the prior art, for the following reasons.

As pointed out during the telephone interview, independent Claim 1 recites alignment of fibers or filaments under application of heat. Mleziva et al only teach applying

heat for joining outer layers 24, 28 to anisotropic elastic fibrous web 12 (column 9, lines 14-30). Additionally, Mleziva et al use the term “anisotropic” to refer to an elastic fibrous web 12 having “different properties,” i.e., tensile loads, in different directions (column 4, lines 16-21), but say nothing about alignment of fibers/filaments transverse to elasticity. Moreover, as noted during the telephone interview, Mleziva et al fail to teach or suggest a blend of both elastic and non-elastic fibers or filaments. Accordingly, independent Claim 1 has been amended to recite such a blend.

In answer to the question raised by the Examiner during the telephone interview concerning stretching under application of heat, a change in fiber structure occurs different from stretching without simultaneous heating. More particularly, the fibers are aligned under stretching or drawing with heating. If heating is not applied, then the fibers would not align, but would break. Therefore, heating is necessary for alignment of fibers or filaments upon stretching or drawing. Independent Claim 1 has also been amended in this regard to recite a majority of the fibers or filaments are drawn and aligned under application of heat, as discussed during the telephone interview.


Radwanski et al, Wisneski et al, Griesbach, III et al and Faass add nothing to Mleziva et al which renders obvious the invention recited in any claim. The remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment, accompanying remarks, and telephone interview in the above-identified application, it is respectfully submitted all claims

pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions. The requisite RCE transmittal papers are enclosed together with the RCE filing fee.

Early favorable action is earnestly solicited.

Respectfully submitted,


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